

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN**

DONALD J. TRUMP,

Plaintiff,

v.

WISCONSIN ELECTIONS COMMISSION,  
et. al.,

Defendants.

No. 20-cv-1785-bhl

**INTERVENOR-DEFENDANT  
DEMOCRATIC NATIONAL COMMITTEE’S MOTION TO DISMISS  
PLAINTIFF DONALD J. TRUMP’S “COMPLAINT FOR EXPEDITED  
DECLARATORY AND INJUNCTIVE RELIEF PURSUANT TO ARTICLE  
II OF THE UNITED STATES CONSTITUTION” (ECF NO. 1)**

The Democratic National Committee (“DNC”), by its undersigned counsel, and pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6), respectfully moves to dismiss in its entirety and with prejudice Plaintiff Donald J. Trump’s “Complaint for Expedited Declaratory and Injunctive Relief Pursuant to Article II of the United States Constitution” (ECF No. 1). This Court lacks subject-matter jurisdiction over a claim asking for a declaratory judgment determining that state officials violated state law and thereby “infringed and invaded upon [*sic*] the Wisconsin Legislature’s prerogative and directions under Article II of the U.S. Constitution regarding the conduct of the 2020 Presidential election in Wisconsin.” ECF No. 1 ¶ 31. Nor does this Court have jurisdiction to “remand this matter to the Wisconsin Legislature” for that body “to review the nature and scope of the infringement declared and determine the appropriate remedy.” *Id.* President Trump’s Complaint also fails in multiple respects “to state a claim upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6).

In granting permissive intervention earlier today, the Court admonished the DNC to “work to ensure that judicial economies are maintained” and that DNC’s participation “will not be a burden on further proceedings.” ECF No. 61 at 4. With that in mind, the DNC will not file a separate brief in support of this motion to dismiss. The arguments for dismissal are largely identical to the arguments for denying the President’s “Motion for Expedited Declaratory and Injunctive Relief” (ECF No. 6). The DNC’s arguments are fully set forth in its brief in opposition to that motion, and they apply with equal force in support of this motion to dismiss. The DNC respectfully refers the Court to that brief, and incorporates the arguments in that brief by reference in support of this motion.

Pursuant to Civil L.R. 7(a)(2), the undersigned certifies that no separate memorandum or other supporting papers will be filed in support of this motion.

Seth P. Waxman  
WILMER CUTLER PICKERING HALE AND  
DORR LLP  
1875 Pennsylvania Ave., NW  
Washington, DC 20006  
(202) 663-6000  
seth.waxman@wilmerhale.com

David S. Lesser  
Jamie Dycus  
Christopher Bouchoux\*  
Joseph J. Yu\*  
Charles Bridge\*  
WILMER CUTLER PICKERING HALE AND  
DORR LLP  
7 World Trade Center  
250 Greenwich Street  
New York, NY 10007  
(212) 230-8800  
david.lesser@wilmerhale.com  
jamie.dycus@wilmerhale.com  
christopher.bouchoux@wilmerhale.com  
joseph.yu@wilmerhale.com  
charles.bridge@wilmerhale.com

Matthew W. O'Neill  
SBN 1019269  
FOX, O'NEILL &  
SHANNON, S.C.  
622 North Water Street,  
Suite 500  
Milwaukee, WI 53202  
(414) 273-3939  
mwoneill@foslaw.com

\* *Admission pending*

Respectfully Submitted,

*s/ Michelle Umberger*

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Charles G. Curtis, Jr.  
SBN 1013075  
Michelle M. Umberger  
SBN 1023801  
Sopen B. Shah  
SBN 1105013  
Will M. Conley  
SBN 1104680  
PERKINS COIE LLP  
One East Main St., Suite 201  
Madison, WI 53703  
(608) 663-7460  
ccurtis@perkinscoie.com  
mumberger@perkinscoie.com  
sshah@perkinscoie.com  
wconley@perkinscoie.com

Marc E. Elias\*  
John Devaney  
Zachary J. Newkirk\*  
PERKINS COIE LLP  
700 Thirteenth St., N.W.,  
Suite 800  
Washington, D.C. 20005  
(202) 654-6200  
melias@perkinscoie.com  
jdevaney@perkinscoie.com  
znewkirk@perkinscoie.com

*Counsel for Respondent-Intervenor*

## **CERTIFICATE OF SERVICE**

I hereby certify that on Tuesday, December 8, 2020, I filed a copy of the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Michelle Umberger  
Counsel for Respondent-Intervenor